

VZCZCXYZ0015
RR RUEHWEB

DE RUEHSJ #0232/01 0792119
ZNR UUUUU ZZH
R 192119Z MAR 08
FM AMEMBASSY SAN JOSE
TO RUEHC/SECSTATE WASHDC 9546
INFO RUEHZA/WHA CENTRAL AMERICAN COLLECTIVE
RUEHBO/AMEMBASSY BOGOTA 4216
RUEHDG/AMEMBASSY SANTO DOMINGO 1587
RHEHNSC/NSC WASHDC
RUCPDOG/DEPT OF COMMERCE WASHINGTON DC

UNCLAS SAN JOSE 000232

SIPDIS

SIPDIS

DEPT FOR WHA, WHA/CEN, WHA/EPSC AND EEB; PLEASE PASS TO
USTR: AMALITO/DOLIVER

E.O. 12958: N/A

TAGS: [ECON](#) [ETRD](#) [KIPR](#) [PGOV](#) [PREL](#) [CS](#)

SUBJECT: U/S PADILLA URGES COSTA RICA TO IMPLEMENT CAFTA

11. SUMMARY. In a timely and highly effective visit to Costa Rica, February 28-29, Commerce U/S Chris Padilla delivered a clear and consistent message to local audiences that Costa Rica needed to finish CAFTA implementation quickly, and that the US was eager to begin working with Costa Rican counterparts to take maximum advantage of the opportunities CAFTA offers. In meetings, interviews, and receptions, U/S Padilla stated that the extension granted to Costa Rica by the CAFTA-DR countries affords it one last opportunity for entry-into-force (EIF) of CAFTA-DR. This is a special opportunity, because free trade agreements (FTA) create unique relationships with the USG, thus far enjoyed by only 14 countries around the world. Padilla also unequivocally confirmed the reality of the original February 29 EIF deadline. Follow-up events include a review of trade and foreign direct investment (FDI) initiatives proposed by the GOCR, a meeting on textiles, and the possibility of fresh trade promotion activities in the US and Costa Rica. END SUMMARY.

=====

STAKEHOLDERS HAVE THEIR SAY

=====

12. U/S Padilla and staff (listed in paragraph 15) started their visit to Costa Rica with a country team briefing, which included a review of his primary message for Costa Ricans, a summary of his prior stops in Nicaragua and Honduras, and a review of the events leading to the signing of the extension for Costa Rica the day before in Washington.

13. In a luncheon discussion with business leaders which followed, Padilla expressed the key points of his message to Costa Rica: that we are eager to move forward and start developing the trade opportunities that CAFTA-DR offers, but they must seize this "one last chance" to conclude their implementation obligations. There will be no further extensions. The U/S expanded on the uniqueness of the trade opportunity and then opened the floor for perspectives from the business leaders on the current economic/legal climate and the continuing CAFTA-DR debate.

14. The group noted the following:

- Personal security is a growing concern for both business and the public.
- Uncertainties over CAFTA-DR implementation and CBTPA renewal have hurt business. One apparel manufacturer laid

off one third of his employees due to reduced customer orders caused by CAFTA uncertainty.

- The national legislature may lack the ability to pass implementation legislation with clear language on IPR data protection. (This was from a representative of the pharmaceutical industry.)
- The general law enforcement environment of Costa Rica regarding IPR and security in general is problematic. Several business leaders also cited deficiencies in the judicial system such as an overwhelming backlog of cases and a priority list for judicial action which does not even address IPR cases.
- The criminal code has a number of specific failings, including outdated laws, very low conviction and incarceration rates, and early releases from custody.
- The government is generally ineffective because of procedural slowness, an aversion to risk, and the labyrinth of national legislature (Asamblea) rules that encourages a turgid, hyper-legalistic approach. (This was from the manager of the airport authority.)

=====

MEETING WITH COMEX MINISTER: CAFTA

=====

¶5. Padilla also met with Minister of Foreign Trade Marco Vinicio Ruiz, and Vice Minister Amparo Pacheco. The Minister contrasted success at the WTO on an arbitration issue between the GOCR and the USG with the procedural problems plaguing the Ministry of Foreign Trade (COMEX) in the Asamblea with CAFTA-DR legislation. The Minister was thankful for the EIF extension, and observed that the extension was a new chapter in the "soap opera" surrounding CAFTA-DR implementation. COMEX aims to deliver all of the legislation to the Constitutional Chamber of the Supreme Court (Sala IV) for judicial review by May 1, though the biodiversity law is a sensitive issue with legislators. (NOTE: As of March 14, five of 13 CAFTA-related laws had completed Sala IV review, four were under review, and four were pending Asamblea action.)

¶6. Padilla noted that the benefits of CAFTA-DR are now being realized in other member countries. With an extension in place, Costa Rica must look forward and plan for an increase in FDI and trade. The aggressiveness of other member countries, including Nicaragua, is very impressive. CAFTA-DR represents permanence, U/S Padilla explained, and investors want certainty. He urged the Minister to maintain the legislative pace of the past four months. Finally, Padilla voiced the "one last chance" message and placed its importance in the context that only fourteen other countries in the world have free trade agreements with the U.S.; Costa Rica has the unique opportunity to be the fifteenth.

¶7. In response to Padilla's question on the status of CAFTA-DR regulations, the Minister was not specific. He explained that COMEX's work is well underway but there are hurdles. USTR should have drafts of the regulations by mid-March, but the drafts do not apply to all issues. For example, the drafting of the regulations for telecommunications cannot commence until the telecommunications bill is passed. After passage, the Ministry of Environment and Energy (MINAE) will become the Ministry of Environment, Energy, and Telecommunications (MINAET). Only then will it be empowered to develop the appropriate regulations.

=====

MEETING WITH COMEX MINISTER: TRADE PROMOTION

=====

¶8. Minister Ruiz described economic growth in Costa Rica and stressed CAFTA-DR's importance to sustain and continue

the growth. Though the economy is positive, a significant group of Costa Rican exporters are affected by rising costs (e.g. agribusiness facing higher costs due to fuel). Also, Costa Rica has been slow in attracting investment due to CAFTA-DR delays, with a few notable exceptions such as Emerson's plan to build a design center in Costa Rica and Boston Scientific doubling its plant. The German company Continental also announced a new investment in October to manufacturer car parts. Ruiz described the GOCR's promotional efforts in the U.S. including opening a Costa Rican export office in Cleveland, Ohio (through a grant from the Cleveland Foundation) and an office in California. The Minister also requested assistance with targeting export opportunities for small and medium businesses in California and presented a list to Padilla of "trade capacity cooperation" and "FDI attraction cooperation" initiatives.

¶9. Padilla promised to review the initiatives and said that Commerce will respond after further discussions in Washington. In addition, he cited the Competitiveness Forum in Atlanta in August as an opportunity for Costa Rica to address the issue of export opportunities for small and medium enterprises cooperation. Reciprocating trade missions to both countries can also pursue trade and investment possibilities. Textiles were discussed as another possibility for engagement since local textile companies are losing customers. U/S Padilla thought that a trip to Costa Rica by Commerce DAS Matt Priest could be helpful in this regard given the DAS's experience with textile politics in the United States.

=====

AUDIENCE WITH THE PRESIDENT

=====

¶10. Padilla later met with President Arias, Minister of the Presidency Rodrigo Arias, Minister of Foreign Affairs Bruno Stagno, Minister Ruiz, and Ambassador to the U.S. Tomas Duenas. CDA Brennan, FCSO, PAO, and EconOff accompanied. The President began by asking Padilla, "What can you do for us," regarding support for CAFTA-DR. Padilla referred to the previous meeting with Ruiz and described the possible visit of DAS Priest regarding textiles and the possibility of FDI and trade initiatives.

¶11. The President turned to Costa Rican politics and described the intransigence of the opposition, which had accused the GOCR of inventing the February 29 EIF deadline and denied the need for an extension, despite the GOCR's attempts to explain the reality and urgency. Padilla acknowledged this issue but also referred to the declining interest in the US for trade agreements. He reiterated his "one last opportunity" for Costa Rica message and noted the small number of countries with free trade agreements with the USG now benefiting from permanent trade benefits. Padilla noted that Costa Rica had originally been the leader in seeking and negotiating CAFTA-DR, but had become the laggard in approving and implementing it.

¶12. U/S Padilla thanked the President for his leadership on cuts in agricultural subsidies and support on issues of importance to the USG such as Cuba, the NAMA agenda at the WTO in Geneva (advocating for market access among less inclined emerging markets like Brazil and India), and the Colombian FTA. On the latter topic, the President offered his assistance in support of President Uribe.

=====

COMMENTS TO THE MEDIA

=====

¶13. Following their meeting President Arias and U/S Padilla held a joint press conference, at which Padilla stressed his "one last chance" message and the finality of the deadlines established in such agreements, as well as the U.S. desire to see Costa Rica reaping the benefits of CAFTA-DR. Padilla also provided a more extensive

interviews to La Nacion, Costa Rica's leading daily, and Eco-News, a leader in political reporting on the radio in the greater San Jose area. In response to (expected) questions about the legitimacy of the February 29 EIF deadline and possible unilateral deposit at the OAS (both concepts advocated by the PAC-led opposition), Padilla delivered a very clear message. He stressed that the USG as a sovereign government "does not sign an agreement that is a lie." In addition, he added, five other countries (the other CAFTA-DR members), all sovereign governments, "do not sign an official document that is a lie."

=====

TOUGH MEETING WITH THE OPPOSITION

=====

¶14. At a reception that evening, Post arranged a private pull-aside between the U/S and PAC faction leader Elizabeth Fonseca and legislative members Rafael Madrigal and Francisco Molina. Both sides spoke frankly. Padilla reprised his firm messages on the legitimacy of the original EIF deadline and the need for the extension, the uniqueness of the opportunity to conclude an FTA, and the urgency to move forward. The PAC legislators presented their critique of the Arias government and the tactics of the pro-CAFTA legislative coalition, as well as their complaints about CAFTA itself. The opposition team remained largely unconvinced, but seemed to take seriously the messages that 1) there would be no further extensions, and 2) should Costa Rica be excluded from CAFTA and the expressed will of the people (in the October 7 referendum) not be fulfilled, they would be to blame. Fonseca acknowledged that this would be the case. She and her team appeared sincerely grateful for the opportunity to exchange views candidly with a senior USG trade official, and following the meeting engaged animatedly with the largely pro-CAFTA crowd at the reception.

¶15. Delegation Members:

-- U/S of International Trade Chris Padilla
-- Chief of Staff, Office of the U/S, Michael DiPaula-Coyle
-- Senior Director, Office of Western Hemisphere, Market Access and Compliance, John Andersen

¶16. This cable has been cleared by the office of U/S Padilla.